

**Notice of Allowability**

Application No.

09/648,006

Examiner

Karl D Easthom

Applicant(s)

NEPELA, DANIEL A.

Art Unit

2832

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Brief filed 7/13/4.
2. ☒ The allowed claim(s) is/are 7 and 10.
3. ☒ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other Appendix A - CLAIMS on APPENDIX

Karl D Easthom  
Primary Examiner  
Art Unit: 2832

Art Unit: 2832

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in the brief filed 7/13/4.

Cancel claims 1 2, 14, 15, 20, 24, 38, 39, 47, 48, 50, 56, 66, 79, 82

Enter the claims under APPENDIX A, CLAIMS ON APPEAL on page 8, which is hereby incorporated by reference and attached hereto as a separate sheet.

2. The following is an examiner's statement of reasons for allowance: Primarily, the claims are now interpreted such that the elements of "selecting a first material having a first electronegativity...selecting a second material having a second electronegativity...wherein an absolute value of a difference between said first and second electronegativities is minimized" requires the method whereby the first and second materials are selected on the basis of electronegativity in order to minimize the difference in electronegativities because "selecting...wherein ...a difference between first and second electronegativities is minimized" indicates that is a reasonable manner of interpretation. It is also noted that the Example 28 of Iwasaki discloses employing an FCC Co[sub90]Fe[sub10] which corresponds to an electronegativity of 2.04 according to applicant's specification at page 12 (line 28), and which corresponds to the first material of the claim. However, the second material Example 28, corresponding to the claim is Cu, which has an electronegativity of 1.91, according to applicant's

Art Unit: 2832

specification. But for applicant's claim to be satisfied, that is minimizing electronegativity, Rh, having an electronegativity of 2.04, according to applicant's specification at page 13, would have to be selected on the basis of its electronegativity. While Iwasaki discloses using Rh as the second material with CoFe as the first material, see cols. 3-4, the claims are not met, even though the difference in electronegativity between the first and second materials is at a minimum inherently, because as noted above, the method is interpreted as requiring the first and second materials to be selected on the basis of electronegativity in order to minimize the difference in electronegativities. That is, "selecting...having a first electronegativity.. wherein ...a difference ....is minimized" is interpreted as requiring selection based upon electronegativity. Any comments in the previous rejections by the examiner indicating a different interpretation are hereby withdrawn.


3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D Easthom whose telephone number is (571) 272-1989. The examiner can normally be reached on M-Th, 5:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2832

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Karl D Easthom  
Primary Examiner  
Art Unit 2832

KDE